



Russell Britt	191 Peachtree St. NE, Suite 2900
P: (404) 954-6939	Atlanta, Georgia 30303-1775
E: rbritt@hallboothsmith.com	W: www.hallboothsmith.com
	P: (404) 954-5000 F: (678) 539-1550

November 19, 2013

Via CM/ECF

The Honorable Judge Marc T. Treadwell
c/o Ms. Teri Hatcher
Courtroom Deputy
United States District Court for the
Middle District of Georgia
Post Office Box 65
Macon, Georgia 31202

**RE: Jane Doe v. Bibb County School District
United States District Court - Middle District of Georgia
Civil Action File No. 5:12-CV-468-MTT**

Your Honor:

On November 8, 2013, Defendant Bibb County School District ("Defendant"), in the above-captioned case, filed its Motion to Dismiss for Failure to State a Claim ("Motion") and a Brief in Support of its Motion. (Doc. #39). However, because of the timing, Defendant believes the Motion should be treated by the Court as a motion for judgment on the pleadings, pursuant to Fed. R. Civ. P. 12(c). See Filo Am., Inc. v. Olhoss Trading Co., L.L.C., 321 F. Supp. 2d 1266, 1267-68 (M.D. Ala. 2004) ("[W]hen a defendant files a Rule 12(b)(6) motion after filing an answer, a court can exercise its discretion and treat the motion as a Rule 12(c) motion for judgment on the pleadings."); Schmitt v. Reimer, 2012 WL 2153800, *1 n.3 (S.D. Ga. June 13, 2012) (A Rule 12(b)(6) motion "can be treated as a Rule 12(c) motion for judgment on the pleadings so long as the motion is filed early enough not to delay trial.").

Here, Defendant's Motion will not delay trial, as discovery does not expire until February 3, 2014. (Doc. 32). Further, the conversion to a motion for judgment on the pleadings does not alter the Court's standard of review. See Roma Outdoor Creations, Inc. v. City of Cumming, Ga., 558 F. Supp. 2d 1283, 1284 (N.D. Ga. 2008) (noting that a motion for judgment on the pleadings is governed by the same standard as a motion to dismiss for failure to state a claim). Therefore, because the parties are not prejudiced by this procedural change, Defendant respectfully requests that the Court exercise its discretion and treat Defendant's pending Motion as a motion for judgment on the pleadings.

Sincerely

/s/ Russell A. Britt

Russell A. Britt

The Honorable Judge Marc T. Treadwell
November 19, 2013
Page 2

RAB/ctw

cc: F. Bradford Wilson, Jr., Esq. (via CM/ECF and/or brad.wilson@ahwllp.com)
Harold S. Lewis, Jr., Esq. (via CM/ECF and/or hslewisjr@gmail.com)
Jarome E. Gautreaux, Esq. (via CM/ECF and/or jarome@thegalawfirm.com)
Kevin Abernethy, Esq. (via CM/ECF and/or kabernethy@hallboothsmith.com)
Andrea Jolliffe, Esq. (via CM/ECF and/or ajolliffe@hallboothsmith.com)